

**DECISION**



**THE COMPTROLLER GENERAL  
OF THE UNITED STATES**  
WASHINGTON, D.C. 20548

*Re: Wallace  
PG II*

28024

**FILE:** B-214572

**DATE:** April 18, 1984

**MATTER OF:** Wallace & Wallace Fuel Oil Co., Inc.

**DIGEST:**

GAO will not review an agency's rejection of a bidder, a small business concern, as non-responsible where the bidder did not file an application with the Small Business Administration (SBA) for a certificate of competency (COC), since by law SBA has conclusive authority to determine the issue and GAO review would amount to a substitution of this Office for the agency authorized by statute to make that review.

Wallace & Wallace Fuel Oil Co. (Wallace) protests award of a contract to any contractor other than itself under solicitation No. DLA600-83-B-0002, issued by the Defense Logistics Agency. Based upon a preaward survey that found Wallace unsatisfactory in the areas of financial capability, performance record and ability to meet the required schedule, DLA determined Wallace to be nonresponsible.

Since Wallace is a small business concern, DLA referred the matter to the Small Business Administration (SBA) for a determination as to whether a certificate of competency (COC) would be issued. The SBA subsequently closed its file because Wallace did not file the COC application by the stipulated due date.

It is the responsibility of a small business firm to file a complete and acceptable COC application with SBA in order to avail itself of the possible protection provided by statute and regulation against unreasonable determinations by contracting officers as to its responsibility. SBA has conclusive authority to issue or deny a COC. 15 U.S.C. § 637(b)(7) (1982). Where a firm does not file for

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a COC with the SBA, we will not review the agency's determination of nonresponsibility since such action, in effect, would amount to a substitution of this Office for the agency specifically authorized by statute to review such determinations. See Parmatic Filter Corporation, B-210138, February 24, 1983, 83-1 CPD 187; Syndex Recovery Systems, Inc., B-210455, February 14, 1983, 83-1 CPD 155.

The protest is dismissed.

*Harry R. Van Cleve*  
Harry R. Van Cleve  
Acting General Counsel